

STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS  
FOR THE MINNESOTA PUBLIC UTILITIES COMMISSION

In the Matter of the Application by  
Lakehead Pipe Line Company,  
Limited Partnership, for a Certificate  
of Need for a Large Energy Facility

FINDINGS OF FACT,  
CONCLUSIONS AND  
RECOMMENDATION

The above-entitled matter came on for hearing before Allan W. Klein, Administrative Law Judge, on June 10 and 11, 1998 in Thief River Falls.

Paul W. Norgren, in-house counsel for Lakehead Pipe Line Company, Inc., 400 Lake Superior Place, 21 West Superior Street, Duluth, Minnesota 55802, and Leo G. Stern, Fredrikson & Byron, P.A., 1100 International Centre, 900 Second Avenue South, Minneapolis, Minnesota 55402, appeared on behalf of the Applicant, Lakehead Pipe Line Company, Limited Partnership ("Lakehead" or "the Company"). Julia E. Anderson, Assistant Attorney General, Suite 1200 NCL Tower, 445 Minnesota Street, St. Paul, Minnesota 55101, appeared on behalf of Intervenor, Minnesota Department of Public Service. David L. Jacobson, Public Utilities Commission, 121 Seventh Place East, Suite 350, St. Paul, Minnesota 55101, appeared on behalf of the Public Utilities Commission staff.

One member of the public attended the hearings in Thief River Falls, and the record closed on June 22, 1998, the date agreed upon and announced at the public hearings.

Notice is hereby given that, pursuant to Minn. Stat. § 14.61, and the Rules of Practice of the Public Utilities Commission and the Office of Administrative Hearings, exceptions, if any, by any party adversely affected must be filed within 15 days of the mailing date hereof with the Executive Secretary, Minnesota Public Utilities Commission, 121 Seventh Place East, Suite 350, St. Paul, Minnesota 55101-2145. Exceptions must be specific, stated separately, and numbered. Proposed Findings of Fact, Conclusions and Order should be included, and copies thereof shall be served upon all parties. If desired, a reply to exceptions may be filed and served within ten days after the service of the exceptions to which the reply is made. Oral argument before a majority of the Commission will be permitted to all parties adversely affected by the Administrative Law Judge's recommendation who request such argument. Such request must accompany the filed exceptions or reply, and an original and 15 copies of each document should be filed with the Commission.

The Minnesota Public Utilities Commission will make the final determination of the matter after the expiration of the period for filing exceptions as set forth above, or after oral argument, if such is requested and had in the matter.

Further notice is hereby given that the Commission may, at its own discretion, accept or reject the Administrative Law Judge's recommendation and that said recommendation has no legal effect unless expressly adopted by the Commission as its final order.

### **STATEMENT OF ISSUE**

Has the Company satisfied the statutory and rule requirements to justify the issuance of a Certificate of Need for its proposed pipeline expansion?

Based upon all of the proceedings herein, the Administrative Law Judge makes the following:

### **FINDINGS OF FACT**

#### Procedural History and Parties

1. On March 9, 1998, the Company filed its application with Minnesota Public Utilities Commission ("the Commission") for a certificate of need for a large energy facility pursuant to Minn. Stat. §§ 216B.2421, subd. 2(c) and 216B.243. (Exhibit 10).

2. On March 11, 1998, following a telephone conversation with Commission staff, the Company filed a supplement to the application consisting of an explanatory letter concerning maintenance of confidential information and an affidavit of mailing for the application. (Exhibit 11). The supplement substantially complies with the Rules of Practice of the Commission.

3. On March 25, 1998, the Commission issued its order accepting the application as substantially complete.

4. On March 25, 1998, the Commission issued its notice and order for hearing, referring the matter to the Office of Administrative Hearings for contested case proceedings. The matter was assigned to Administrative Law Judge Allan W. Klein for hearing. The Department of Public Service ("DPS") was designated to investigate the reasonableness of granting a certificate of need to the Company.

5. The Administrative Law Judge held a prehearing conference on April 9, 1998. Representatives of the Company and of the DPS participated in the prehearing conference. On April 13, 1998, the Administrative Law Judge issued a Prehearing Order.

6. DPS was granted permission to intervene in this matter as a party. The DPS has investigated the reasonableness of granting a certificate of need to the Company.

7. The Prehearing Order set public and evidentiary hearings on June 10 and 11, 1998, in Thief River Falls.

8. On April 20, 1998, the Commission's notice and order for hearing were published in the Minnesota State Register.

9. On April 24, 1998, the Company filed a further supplement to its application for a certificate of need. (Exhibit 12). The supplement substantially complies with the Rules of Practice of the Commission. Pursuant to an agreement at the Prehearing Conference, the Company's original application as supplemented constitutes its prefiled direct testimony in this matter.

10. On May 14, 1998, the Company distributed copies of a notice of the public hearing to owners of property over and through which the proposed pipeline would pass. In addition, on May 14, 1998, a notice of the public hearing was sent to the chairmen of the county boards for each of the five counties over and through which the proposed pipeline would pass. (Exhibit 1). Resolutions in support of the proposed pipeline have been submitted by each of the five county boards. (Exhibits 6, 7, 8, 9, and 13).

11. On May 18, 1998, display advertisements giving notice of the public hearing were published in the Crookston Daily Times (Crookston) and the Fosston Thirteen Towns (Fosston). On May 20, 1998, display advertisements giving notice of the public hearing were published in the East Grand Forks The Exponent (East Grand Forks), Leader Record (Gonvick), Hallock Kittson County Enterprise (Hallock), McIntosh Times (McIntosh), Middle River The New River Record (Greenbush), Oklee Herald (Oklee), Red Lake Falls Gazette (Red Lake Falls), Thief River Falls Times (Thief River Falls), and Warren Sheaf (Warren). On May 21, 1998, display advertisements giving notice of the public hearing were published in the Erskine Echo (Erskine), Kalstad North Star News (Kalstad), Grand Forks Herald (Grand Forks, North Dakota), St. Paul Pioneer Press (St. Paul), and Stephen Messenger (Stephen). On May 23, 1998, a display advertisement giving notice of the public hearing was published in the Thief River Falls-Northern Watch (Thief River Falls). (Exhibit 1). The hearings were held at 7:00 p.m. (June 10) and 9:00 a.m. (June 11). (Exhibit 2). One member of the public attended and participated in the hearings.

12. Public informational meetings were held by the Minnesota Environmental Quality Board ("EQB") in each of the five counties to address the company's application for partial exemption from pipeline route selection procedures pursuant to rules promulgated under Minn. Stat. § 1161.015. The EQB meetings were held according to the following schedule:

Kittson County	June 2, 1998
Pennington County	June 2, 1998
Marshall County	June 3, 1998
Red Lake County	June 4, 1998
Polk County	June 4, 1998

(Exhibit 2). A total of nine members of the public attended these EQB meetings.

13. The parties have stipulated to Findings and Conclusions in the same general format and substance as these Findings and Conclusions.

#### The Applicant and the Project

14. The Company owns and operates an interstate common carrier crude petroleum and natural gas liquids pipeline system in the states of North Dakota, Minnesota, Wisconsin, Michigan, Illinois, Indiana and New York. As a common carrier, the Company's customers are shippers of hydrocarbons. Such shippers desire to contract with the Company for transport of their commodities to various refineries or other destinations either owned by them or by third parties. (Application § 7853.0230 at 1).

15. The Company's system is connected to the Interprovincial Pipe Line Inc. ("IPL") pipeline system. Together, the two systems comprise the world's longest liquids pipeline, covering approximately 3,200 miles from western Canada through the upper and lower Great Lakes region of the United States to points in eastern Canada. (Application § 7853.0230 at 2).

16. The interconnection between the Lakehead and IPL systems is permitted and subject to an existing Agreement Between the Government of Canada and the Government of the United States of American Concerning Transit Pipelines dated January 28, 1977. (Exhibit 3). This Agreement encourages the uninterrupted transportation of hydrocarbons between the two countries.

17. The Lakehead system covers approximately 1,750 miles, from the Canadian border near Natchez, North Dakota to the Canadian border near Marysville, Michigan. Substantially all of the crude petroleum and natural gas liquids transported by Lakehead are delivered to markets in the United States and eastern Canada. The Lakehead system serves all of the major refinery centers in the Great Lakes region of the United States as well as the Province of Ontario. The Lakehead system transports approximately 60% of all crude petroleum and natural gas liquids produced in western Canada, and deliveries on the system in 1997 averaged approximately 1.5 million barrels per day. (Application § 7853.0230 at 2).

18. The Company proposes to add approximately 68.6 miles of 36-inch outside diameter pipe primarily in its existing right-of-way and parallel to its existing pipelines in Minnesota in four separate segments from the North Dakota border to

milepost 893.92, a point near highway 92 at Gully, Minnesota in Polk County. The new pipeline will become a part of the existing pipeline facility and will be used to transport crude petroleum and other liquid hydrocarbons to Minnesota Pipe Line at Clearbrook, Minnesota and to other existing delivery points east of Clearbrook. The estimated cost of the Minnesota portion of the new pipeline is approximately \$70,500,000. (Application § 7853.0230 at 3; Supplement to the Application (hereinafter "Supplement") at 1). (Exhibit 12).

19. The Company's proposed expansion will interconnect with a corresponding expansion of IPL's system in western Canada. The IPL expansion will interconnect with Lakehead's expansion at the Canadian border near Necho, North Dakota. IPL has already applied for and received approval from Canada's National Energy Board ("NEB") for its portion of the expansion. (Exhibit 14: Rakow testimony at 4; Exhibit 5: NEB order released June 9, 1998). The Company's proposed expansion will also interconnect with pipeline facilities previously approved by the Commission in March of 1985 and June of 1994. The Commission's 1985 approval involved the Minnesota Pipe Line Company system, which system plays and has played a longstanding and significant role in the supply of energy to the citizens of the State of Minnesota. (Application § 7853.0230 at 5; § 7853.0240 at 1). The commission's 1994 approval involved the applicant's expansion by addition of a 20-inch pipeline from Minnesota's western border to Clearbrook, Minnesota.

20. Pending regulatory approval, the Company plans to begin construction of the new pipeline on or about September 15, 1998, and to place the new pipeline in service in January of 1999. Integration of the new pipeline into Lakehead's system will increase the system's capacity by approximately 166,700 barrels per day. (Supplement at 1-2).

21. The new pipeline will cross the Minnesota counties of Kittson, Marshall, Pennington, Red Lake, and Polk. Because the pipeline will be constructed adjacent to the Company's existing pipeline corridor, no additional right-of-way will be needed, except in a few circumstances where the Company will need and obtain a greater than now existing width of right-of-way. (Application § 7853.0230 at 3).

#### Applicable Statutory Criteria

22. Minn. Stat. § 216B.243 and Minn. Rules, parts 7853.0130 set forth the criteria which must be met to establish need for the proposed pipeline expansion.

- A. Potential Adverse Result of Denial (Minn. Rules § 7853.0130(A); Minn. Stat. § 216B.2431(1), (2), (4), and (9)).

(1) *Accuracy of Forecast of Demand*

23. The major supply source, approximately 75%, of crude petroleum for refining at the two refineries within the State of Minnesota, is provided through

Lakehead's system. (Application § 7853.0240 at 1). Specifically, the Lakehead system makes deliveries at Clearbrook, Minnesota to Minnesota Pipe Line Company's system. That system serves the two refineries located in the Twin Cities area. Minnesota Pipe Line received a certificate of need in 1985 for a capacity expansion of its system from Clearbrook to the Twin Cities. As such, Minnesota is largely dependent on the reliable supply of crude oil through Lakehead's system. (Application § 7853.0250 at 1).

24. The current annual capacity of the Company's pipeline system is approximately 1.5 million barrels per day and will be expanded to approximately 1.6 million barrels per day by the end of 1998. Despite the recent expansions undertaken by the applicant, shippers continue to request transport of more petroleum than the Company's pipeline capacity allows, resulting in apportionment of the pipeline system's capacity among the various shippers. (Application § 7853.0240 at 2). In the 36 months from January of 1995 through December of 1997, the Company has been apportioned, i.e., unable to transport all nominated volumes, in 29 months. (Exhibit 15: Alexander testimony at 3).

25. The Company clearly cannot meet its current demand for crude oil and NGL transportation within its current facilities. (Alexander testimony at 5).

26. Based on shipper forecasts supplied to the Company, the capacity shortfall is expected to continue at least past 2010. (Application § 7853.0520 at 1).

27. The Company's forecasts of demand for capacity on its system have been reviewed in depth by DPS and determined to be reasonable. (Application § 7853.0520; Exhibit 15: Alexander testimony at 6-7, 8).

28. The advantages to the producing sector of the proposed expansion of the system's capacity are estimated to be approximately \$C5.5 billion. (Application § 7853.0240 at 3-4).

29. The advantages to the refining sector of the proposed expansion of the system's capacity are expected to include a sharing of the revenue benefit to the producing sector, a broader choice of supply of crude oil, and the availability of a stable source of supply at a predictable price. (Application § 7853.0240 at 4-5).

30. The advantages to the general public of the proposed expansion of the system's capacity are expected to include continuation of a stable North American, specifically western Canadian, source of petroleum supplies to the region, thereby reducing the risk of supply interruptions in the future from other, less stable, sources of supply. The expansion will also contribute to the tax base, will create temporary and permanent employment opportunities and foster stable employment for Minnesota residents, and will provide associated economic benefits to communities near the pipeline system and to the state as a whole. (Application §§ 7853.0240 at 4, 7853.0270 at 2-3).

31. The advantages to the Company include an ability to meet the increase in forecast throughput, increased capability to transport heavy crude, increased flexibility, and greater utilization of facilities.

32. Even if the forecast throughput were to decline, a possibility which is unlikely given the reasonableness of the forecasts, the Company believes that the expansion facilities would still enable the system to meet capacity needs at lower operating expenses for power and for drag reducing agents ("DRA") (chemicals introduced into the pipeline to lessen friction of the product against the pipe's interior walls), or to increase the viscosity limit of heavy crude oil blends transported on the system. (Application § 7853.0240 at 6-7). Those benefits presumably would extend to and benefit the producing, refining, and public sectors, as well as the Company.

(2) *Effects of Conservation Programs*

33. The effects of existing or possible state and federal energy conservation programs, including the incentives in the National Energy Policy Act of 1992 for increasing production of alternative fuel vehicles, are not expected to reduce demand for refined petroleum products so as to eliminate the excess demand for crude oil products to be shipped through the Company's pipeline system. (Alexander testimony at 10).

34. The Company itself has engaged in substantial activities to meet energy efficiency and conservation goals, including its installation of variable frequency induction motor drives to minimize wasted energy at its pumping stations, utilization of larger diameter pipe, its use of a computerized pipeline control system to implement the most efficient combination of pumps, its use of high efficiency pumps and motors, its investigation and use of utility incentive programs for energy/power cost savings, and its use of DRA. (Application § 7853.0260 at 1-5). These conservation activities are expected to continue with and be a part of the proposed expansion.

(3) *Effects of the Company's Promotional Practices.*

35. The Company has not engaged in any promotional activities to increase the demand for crude oil to be shipped through its pipeline system. (Application § 7853.0250 at 3).

(4) *Ability of Other Facilities to Meet Future Demand*

36. No evidence suggests that the Company has access to any current or planned facilities not requiring certificates of need which could meet the anticipated future demand.

(5) *Effect of Proposed Facility in Efficient Use of Resources*

37. The proposed expansion of the Company's pipeline system will make efficient use of resources by allowing the continuing demand for crude petroleum and natural gas liquids from western Canada to be met by commodities transported by the safest and most efficient method for delivering petroleum to the Upper Midwest. (See generally Exhibit 15: Alexander testimony). In addition, the denial of the certificate of need would adversely affect the allocative efficiency of future crude oil supplies in the region with the probable result of an increase in the consumers' costs of refined products as well as an increase in the costs of competing energy sources. (Exhibit 15: Alexander testimony at 10).

38. Approval of the certificate will help ensure that Minnesota and neighboring states have access to an important source of energy. This access should result in lower overall costs for crude oil supplies and refined products, and should help protect against shortages of crude oil and products. (Exhibit 15: Alexander testimony at 10).

B. Alternatives to Applicant's Proposal (Minn. Rules § 7853.0130(B); Minn. Stat. § 216B.243(7))

39. The Company has identified several possible alternatives to its proposal. (Application § 7853.0540). (Exhibit 4: Response to DPS request for information number 4).

40. The first alternative is the optimization of the Company's existing pipelines without the addition of a new pipeline. This alternative, which includes the use of DRA, incremental additions of additional horsepower at pump stations, increases in line pressure, and use of alternative transportation routes through western Canada, has already been pursued and essentially been fully developed by the Company. Accordingly, this alternative cannot provide any significant part of the 166,700 barrels per day increase that would be provided by the proposed pipeline expansion. (Application § 7853.0540 at 2).

41. The second alternative is to construct new lines, other than that being proposed, in conjunction with existing pipelines through the Company's existing route. Variations considered and rejected as less than optimal included (1) the construction of a 42/48-inch pipeline from the United States-Canadian border to Clearbrook, Minnesota; (2) the construction of a 26-inch pipeline from the United States-Canadian border to Clearbrook, Minnesota; and (3) the construction of a 30/48-inch pipeline from the United States-Canadian border to Superior, Wisconsin. Variation (1) had an unreasonably high capital cost which was not sufficiently offset by power cost reductions; variation (2) would have resulted in higher operating power costs over the proposed facility which were not offset by reduced construction costs; and variation (3) would have a far longer construction schedule with too distant of a completion date and also would not meet long-term capacity requirements. (Application § 7853.0540 at 2-5).



42. The third alternative is to construct an entirely new line to the markets in Minnesota and Chicago. This alternative also had an unreasonably high capital cost in excess of \$1.3 billion. (Application § 7853.0540 at 5).

43. The fourth alternative is to utilize alternative modes of transportation, i.e., truck transport. However, pipelines have been shown to be the safest and most efficient means of transporting petroleum to meet the petroleum needs of the Upper Midwest. (Application § 7853.0250 at 5-6). An estimated 292 tanker trucks would be required, each to run four loads per day, 365 days per year, to transport the additional 166,700 barrels per day from Gretna to Clearbrook. These trucks collectively would travel over 100,000,000 miles per year, and would consume approximately 25,000,000 gallons of fuel per year. For reasons of cost, safety, and reliability of supply, this alternative also is not feasible. (Application § 7853.0540 at 5-6).

44. In addition to the four alternatives identified by the Company, the DPS identified four other alternatives which, at the DPS request, were analyzed by the applicant. (Exhibit 4: Response to DPS request for information number 4). The DPS first alternative was to address the availability of existing alternative pipelines. This was investigated by applicant. However, none exists geographically which would provide the economic benefits of transporting and making available western Canadian crude, the product which Lakehead's system does provide. The DPS second alternative sought applicant's analysis of the viability of expansion of the Lakehead system along a different route than that proposed. This, too, was explored by applicant. However, the time, expense, environmental impact, inability to use and optimize existing facilities, and related considerations negate such an alternative. The DPS third alternative of rail transportation was analyzed by applicant. Rail transport is not a viable alternative for many of the same reasons that truck transportation is not. Despite attempting to do so, applicant was not even able to obtain shipping rates for this alternative from the two railroads it contacted. Lastly, the DPS fourth alternative of water transportation was reviewed. Unfortunately, water transport is not viable on account of the lack of direct, as opposed to indirect, waterways from western Canada to the United States and eastern Canada refining markets. Additionally, use of waterways would require substantial capital costs in the form of new terminals and pipelines therefrom to refineries.

45. None of the alternatives to the proposed expansion is superior to the proposed expansion. The proposed expansion is the best choice. (Exhibit 14: Rakow testimony at 9).

(1) *Appropriateness of Proposed Facility Compared to Alternatives*

46. The diameter, type, and timing of the Company's proposed facility is preferable to that of any of the alternatives. (Exhibit 14: Rakow testimony at 9).

(2) *Costs of Proposed Facility Compared to Costs of Alternatives*

47. The proposed facility is less expensive than any of the alternatives except the first one, and as noted, the first alternative has already been implemented and cannot satisfy the increased demand.

(3) *Effect of Proposed Facility on Environments Compared to Alternatives*

48. The proposed facility poses the least risk to the natural and socioeconomic environments of the alternatives that would be effective to meet the increased demand. By laying an additional pipeline within the Company's existing right-of-way, parallel and adjacent to other existing pipelines, the Company will be minimizing the impact of its expansion. The Company has developed its construction practices to minimize any negative effects on the land, persons, and communities in the vicinity of the expansion project. The alternatives which involve substantial construction would be at least as intrusive as the proposed facility, if not more so. The alternatives that do not involve construction present a substantial, ongoing impact on the natural and socioeconomic environments by introducing heavy and continual tanker truck or railroad traffic through the communities along the route of the proposed facility.

(4) *Expected Reliability of Proposed Facility Compared to Alternatives*

49. The proposed facility would be at least as reliable as any of the alternatives which involve transportation of petroleum through a pipeline system. Those alternatives which do not involve use of pipelines would be substantially less reliable. Tanker trucks would be subject to breakdowns and inability to meet schedules for any number of reasons, would substantially increase the wear and tear upon the roads upon which they would travel, and would be vulnerable to adverse weather conditions, road conditions, and other problems. Use of rail has many of the same drawbacks, even if the railroads were desirous to take on the shipment. In contrast, pipelines represent the more safe, stable and efficient form of transportation for crude petroleum and natural gas liquids.

50. In light of the foregoing, none of the proposed alternatives is a viable alternative to the Company's proposed pipeline expansion.

C. Comparison of the Consequences of Granting the Certificate of Need with the Consequences of Denying the Certificate of Need (Minn. Rules § 7853.0130(C); Minn. Stat. § 261B.243(3), (5), and (6))

(1) *State Energy Needs*

51. The Company's proposed facility is consistent with overall state energy needs. The Company's existing facility cannot meet the demands of its shippers, and the Company's proposal is the most efficient manner of meeting the shippers' excess demand. The overall energy needs of the state are best served by meeting its current

and future energy needs using the most efficient alternative. The pipeline would improve the reliability of Minnesota's crude oil sources by increasing the amounts of crude oil that could efficiently be transported into the state from western Canadian sources. Reliability would also be improved because the refineries in this geographic area would be assured of a more stable supply from the shippers in western Canada.

(2) *Impact on Natural and Socioeconomic Environments*

52. The Company's proposed expansion will have a limited, temporary impact on the natural and socioeconomic environments in Minnesota. (Application §§ 7853.0620, 7853.0630). The pipeline expansion will be constructed adjacent to the existing pipeline corridor and within the existing right of way, except in a few circumstances where greater right of way width is needed. The addition of another pipeline in an existing right-of-way parallel to other existing lines will have little permanent effect on the property values of affected landowners. Any impact that might result will occur during the construction process, and the Company has developed construction practices to minimize such impact. The Company has represented that landowners will be compensated for any damages resulting from construction.

53. The Company has applied to the Minnesota EQB for a pipeline routing permit. The Company's proposal shows that the Company intends to undertake all reasonable efforts to minimize any temporary negative effect on natural and socioeconomic environments caused by the construction process.

(3) *Effects on Future Development*

54. There is no evidence to suggest that the proposed facility will have any substantial direct impact on future development in the state of Minnesota. (Application § 7853.0640). The proposed facility will enable current and future demands for crude oil in the state to be met in an efficient manner, thereby improving the opportunities for future development by enhancing the reliability and cost-effectiveness of western Canadian crude oil as a source of energy in Minnesota, but there is no evidence that the proposed facility will directly induce any specific development.

(4) *Socially Beneficial Uses of the Output of the Proposed Facility*

55. As discussed in ¶ 30 of the above findings, the proposed pipeline expansion will have socially beneficial effects in terms of a greater reliability of crude oil supplies from a North American source, additional temporary and permanent employment opportunities for Minnesota residents, an increased tax base for the affected counties, and associated economic benefits to those counties and to the state as a whole.

D. Compliance with Other Governmental Policies, Rules and Regulations (Minn. Rules § 7853.0130(D); Minn. Stat. § 216B.243(8))

56. The Company has complied with or is in the process of complying with the relevant policies, rules, and regulations of the various state agencies, federal agencies and local governments which have jurisdiction over the proposed project. In particular, the pipeline system is extensively regulated by the United States Department of Transportation and its Office of Pipeline Safety under the provisions of the Hazardous Liquids Pipeline Safety Act and its related statutes and regulations, and by the Federal Energy Regulatory Commission, with respect to the filing, adjustment, and application of the Company's tariff.

57. After study, investigation and analysis, the DPS supports the applicant's request for a certificate of need. No person or entity opposes it.

Based upon the foregoing Findings of Fact, the Administrative Law Judge makes the following:

### **CONCLUSIONS**

1. Any of the Findings which more properly should be designated as Conclusions are adopted as such. Similarly, any of the Conclusions which more properly should be designated as Findings are adopted as such.

2. The Commission duly acquired and has jurisdiction over this matter.

3. The Company and the Commission have fulfilled all relevant substantive and procedural statutory and regulatory requirements.

4. The application together with its supplements in part, constitute applicant's direct testimony and substantially conform to the requirements of all applicable statutes and rules, as modified by orders of the Commission.

5. The Company has demonstrated in this proceeding that there is an established need for construction of the proposed expansion to the Company's pipeline system from the North Dakota border to Gully, Minnesota. It has been established that there is a current and anticipated future demand for increased capacity on the Company's pipeline system, and that the Company's proposed facility is the most cost effective and reliable means identified in this record for satisfying this additional need for capacity.

6. The probable result of a failure to complete the proposed expansion would be to adversely affect the future adequacy, reliability, efficiency, and cost-effectiveness of the petroleum supplied to refineries in Minnesota and other states and to the people of Minnesota.

7. A more reasonable and prudent alternative to the proposed expansion of the Company's pipeline system has not been demonstrated.

8. Both the immediate and the long-term consequences of granting a certificate of need to the Company are more favorable than the consequences of denying the certificate.

9. It has not been demonstrated that the design, construction or operation of the proposed pipeline will fail to comply with any relevant policies, rules or regulations of other state agencies, federal agencies or local governments which have jurisdiction over the pipeline.

10. The requirements for a certificate of need set forth in Minn. Stat. § 216B.243 and Minn. Rules, part 7853 have been satisfied.

Based on the foregoing Findings of Fact and Conclusions, the Administrative Law Judge makes the following:

### **RECOMMENDATION**

That the application of Lakehead Pipe Line Company, Inc. for a certificate of need for a new large energy facility be granted.

Dated this 23<sup>rd</sup> day of June 1998.

---

ALLAN W. KLEIN  
Administrative Law Judge

Reported: Taped